

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 Case No.: 2:20-cv-00322-JAD-VCF

4 ELIJAH L. PALMER, *et al.*,

5 Plaintiff

Order Dismissing Action

6 v.

7 LAS VEGAS METROPOLITAN POLICE
8 DEPARTMENT, *et al.*,

9 Defendants

10 Plaintiff Kevin Sunseri brings this civil-rights case under § 1983 for events he alleges
11 occurred during his incarceration at Clark County Detention Center (“CCDC”).¹ On February
12 13, 2020, the Court directed Plaintiff Sunseri to file an amended complaint and a fully completed
13 application to proceed *in forma pauperis* or pay the \$400 filing fee.² The Court expressly
14 warned him that his failure to file an amended complaint and a complete application to proceed
15 *in forma pauperis* or pay the filing fee within 30 days from the date of that order would result in
16 the dismissal of this case.³ The deadline has passed, and Plaintiff Sunseri has not responded to
17 the Court’s order.

18 District courts have the inherent power to control their dockets and “[i]n the exercise of
19 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.⁴ A
20 court may dismiss an action with prejudice based on a party’s failure to prosecute an action,
21 failure to obey a court order, or failure to comply with local rules.⁵ In determining whether to

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23 ¹ ECF No. 2 (complaint).

24 ² ECF No. 1 (order).

25 ³ *Id.*

26 ⁴ *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

27 ⁵ See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with
28 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to

1 dismiss an action for lack of prosecution, failure to obey a court order, or failure to comply with
2 local rules, the court must consider several factors: (1) the public's interest in expeditious
3 resolution of litigation; (2) the court's need to manage its docket; (3) the risk of prejudice to the
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the
5 availability of less drastic alternatives.⁶

6 I find that the first two factors—the public's interest in expeditiously resolving the
7 litigation and the court's interest in managing the docket—weigh in favor of dismissing this case.
8 The risk-of-prejudice factor also weighs in favor of dismissal because a presumption of injury
9 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
10 prosecuting an action.⁷ The fourth factor is greatly outweighed by the factors in favor of
11 dismissal, and a court's warning to a party that his failure to obey the court's order will result in
12 dismissal satisfies the consideration-of-alternatives requirement.⁸ Plaintiff Sunseri was warned
13 that his case would be dismissed if he failed to file an amended complaint and submit a
14 completed application within 30 days, or pay the filing fee.⁶ So, Plaintiff Sunseri had adequate
15 warning that his failure to file an amended complaint and submit a completed application or pay
16 the filing fee would result in this case's dismissal.

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19 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–
20 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring pro se plaintiffs to
21 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.
22 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules).

23 ⁶ *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;
24 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 ⁷ See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

26 ⁸ *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

27 ⁶ ECF No. 1 (order).

Accordingly, IT IS HEREBY ORDERED that **this action is DISMISSED** without prejudice based on Plaintiff Sunseri's failure to file an amended complaint and submit a completed application or pay the filing fee in compliance with this Court's February 13, 2020, order; and

The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE THIS CASE.

Dated: March 30, 2020.


U.S. District Judge Jennifer A. Dorsey